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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 745

PAUL DE LUCIA,
Petitioner,

v.

UNITED STATES OF AMERICA.

On petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

REPLY

to Government's Brief in Opposition

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May it please the Court:

The Jenck's Case

We respectfully refer Your Honors again to our petition, pp. 136 to 146. It must be understood that the trial Court examined a report *in camera* and decided that it could have no value. We have not seen the report now before Your Honors.

(a) The report was requested in connection with the cross-examination of the witness Agent Stonesifer See our petition p. 141, AA 390.

(b) From the direct testimony of Agent Stonesifer Your Honors will observe that the report became a part of the case. The direct examination of Agent Stonesifer opened up the entire case for cross examination.

(c) The Solicitor General has adopted the tactics of the prosecutor and seeks to confine our demand for the report solely to our desire to cross examine Agent Smith. Such tactics should not prevail, in the light of the record. Please again see our petition, pp. 143-146.

If the Government had not seen fit to obtain continuances* in the matter of the present BRIEF IN OPPOSITION, this petition for certiorari might have been submitted to Your Honors together with others recently argued. (Nos. 435 and 437, *Lev. et al.*, No. 451, *Rosenberg*, No. 491, *Galax Mirror Co. et al.* No. 471, *Palmero*, No. 489, *Pittsburg Plate Glass.*

We respectfully submit that Your Honors should grant certiorari, in the case at bar, in order to include this petition. Each case presents its factual background. The case at bar presents questions not involved in the previous cases—questions not to be evaded in the manner attempted by the Government in the cases heretofore argued.

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* We made no objection to motions for continuance. Now, after having examined the briefs in the other cases, we conclude that perhaps we should have objected and have made an effort to have all of the cases considered together.

The Value of the Evidence

The Solicitor General erects a man of straw by representing our complaint to have been one of error in admission of evidence p. 12. Our point, raised below by motion for acquittal and decided against petitioner in the Court of Appeals, is that the hearsay evidence has no probative value. After all the Government should be required to prove its case.

We trust that after Your Honors study the record that no amount of advocacy or legal legerdemain can sweep that requirement under the rug.

Respectfully submitted,

WM. SCOTT STEWART
Counsel for petitioner